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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,541	12/14/2001	Chien-Tu Tseng	TSEN3034/EM	3273
23364	7590	11/14/2003	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			NAKARANI, DHIRAJLAL S	
		ART UNIT	PAPER NUMBER	
		1773	7	

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/014,541	TSENG, CHIEN-TU
	Examiner	Art Unit
	D. S. Nakarani	1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 September 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 9-15 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 9-15 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                    6) Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In response to the Office letter mailed August 15, 2003 (Paper No. 5), applicant admit on the record that as described in the present application, the flexible film base can be any of the number of different flexible films which are therefore not patentably distinct (see last two paragraphs of the response (page 4) filed September 11, 2003 (Paper no. 6).
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 9-12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (U.S Patent 3,442,686).

Jones discloses a plastic packaging film comprising base such as polyethylene terephthalate film, polypropylene film etc. (col. 4, lines 14 – 25) coated with an inorganic coating of compound such as silicon oxide, aluminum oxide, zirconium oxide etc. (col. 4 lines 34 – 41). Jones discloses that the packaging film is a transparent packaging film (col.2, lines 5-22). Jones' base film of polyethylene terephthalate has thickness of 1 mil (i.e. 25.4 microns) (Example 1) and of polypropylene has thickness of 0.8 mil (i.e. about 20 microns) (Example 2).

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The thickness of the inorganic coating is from 0.02 to 2 microns (claim 1). Jones' Examples include inorganic coating of MgO, Al<sub>2</sub>O<sub>3</sub>, SiO<sub>2</sub> or ZrO<sub>2</sub> (Table V). Jones does not disclose that the inorganic coating absorbs environmental energy and radiates far infrared radiation. However since the base flexible film and the inorganic coating forming material are the same, all other properties specifically not disclosed deemed to be inherent properties unless shown otherwise.

5. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (U.S. Patent 3,442,686).

Since applicant admit on the record that the species are not patentably distinct therefore coating any flexible base with Jones coating is obvious to a person of ordinary skill in the art.

6. Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maki (U.S. Patent 5,002,511).

Maki discloses stuffed toys with heat responsive infrared radiation. The stuffed toy (1) comprises a laminate 2. The laminate 2 comprises cover sheet 3 formed of a material fur or like exposed to the surface of the stuffed toy and a pliable sheets having a far infrared radiation layer 4 on one surface thereof. Materials for the pliable sheets include woven fabrics, non-woven fabrics, synthetic resin films, metal foils or the like or a suitable laminate thereof. The far infrared radiation layer 4 includes a far infrared radiation body 6. The far infrared radiation body 6 is in form of coating and made of ceramic material containing oxides selected from aluminum oxide, zirconium oxide, silicon oxide, lithium oxide, iron oxide, calcium oxide and magnesium oxide (see from col. 2 line 12 to col. 3 line 10). Maki's pliable synthetic resin film includes all

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conventional synthetic resin film. Since applicant admit on the record that the recited species in claim 10 are not patentably distinct Maki's recited pliable sheet materials encompasses claimed species. Maki fail to disclose thickness of pliable sheet and the thickness of the far infrared radiation layer 4. However in absence of establishing criticality of claimed thickness of a flexible film base and of ceramic coating, a person of ordinary skill in the art at the time of this invention made would have found it obvious to optimize thickness of the pliable sheet and of coating for the given application.

No claims are allowed.

7. Applicant's arguments filed May 8, 2003 have been fully considered but they are not persuasive. In reference to rejection of claim 1 under 35 USC102 (b) as being clearly anticipated by Jones (U.S. Patent 3,442,686), applicant mainly argue that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly by or inherently described, in a single prior art reference. Jones discloses a plastic packaging film composing a base polyethylene terephthalate film having thickness of 1 mil. Coated with a coating comprising zirconium oxide at thickness of not more than 2 microns. However, there is absolutely no suggestion in this reference of a film capable of radiating far infrared with a wavelength of 4  $\mu\text{m}$  – 14  $\mu\text{m}$  utilizing the fact that in ordinary temperature far infrared ceramic materials can absorb the environmental energy and radiate appropriate amount of far infrared radiations.

These arguments are unpersuasive because Jones packaging film is identical in structure and in composition. Jones does not disclose radiating far infrared radiation. However since the film structure and composition is identical all other properties not specifically disclosed by Jones

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are deemed to be inherent properties. There is nothing on record showing that Jones packaging film does not radiant far infrared radiation.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is 703-308-2413. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J. Thibodeau can be reached on 703-308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

D.S Nakarani/lap  
November 10, 2003.

  
D. S. NAKARANI  
PRIMARY EXAMINER